

**§ 301.6514(a)-1 Credits or refunds after period of limitation.**

(a) A refund of any portion of any internal revenue tax (or any interest, additional amount, addition to the tax, or assessable penalty) shall be considered erroneous and a credit of any such portion shall be considered void:

(1) If made after the expiration of the period of limitation prescribed by section 6511 for filing claim therefor, unless prior to the expiration of such period claim was filed, or

(2) In the case of a timely claim, if the credit or refund was made after the expiration of the period of limitation prescribed by section 6532(a) for the filing of suit, unless prior to the expiration of such period suit was begun.

(b) For procedure by the United States to recover erroneous refunds, see sections 6532(b) and 7405.

**§ 301.6514(b)-1 Credit against barred liability.**

Any credit against a liability in respect of any taxable year shall be void if the collection of such liability would be barred by the applicable statute of limitations at the time such credit is made.

## MITIGATION OF EFFECT OF PERIOD OF LIMITATIONS

**§ 301.6521-1 Mitigation of effect of limitation in case of related employee social security tax and self-employment tax.**

(a) Section 6521 may be applied in the correction of a certain type of error involving both the tax on self-employment income under section 1401 and the employee tax under section 3101 if the correction of the error as to one tax is, on the date the correction is authorized, prevented in whole or in part by the operation of any law or rule of law other than section 7122, relating to compromises. Examples of such law are sections 6212(c), 6401(a), 6501, 6511, 6512(a), 6514, 6532, 6901 (c), (d) and (e), 7121, and 7459(e).

(b) If the liability for either tax with respect to which the error was made has been compromised under section 7122, the provisions of section 6521 limiting the correction with respect to the other tax do not apply.

(c) Section 6521 is not applicable if, on the date of the authorization, correction of the effect of the error is permissible as to both taxes without recourse to such section.

(d) If, because an amount of wages, as defined in section 3121(a), is erroneously treated as self-employment income, as defined in section 1402(b), or an amount of self-employment income is erroneously treated as wages, it is necessary in correcting the error to assess the correct tax and give a credit or refund for the amount of the tax erroneously paid, and if either, but not both, of such adjustments is prevented by any law or rule of law (other than section 7122), the amount of the assessment, or the amount of the credit or refund, authorized shall reflect the adjustment which would be made in respect of the other tax (either the tax on self-employment income under section 1401 or the employee tax under section 3101) but for the operation of such law or rule of law. For example, assume that during 1955 A paid \$10 as tax on an amount erroneously treated as "wages", when such amount was actually self-employment income, and that credit or refund of the \$10 is not barred. A should have paid a self-employment tax of \$15 on the amount. If the assessment of the correct tax, that is, \$15, is barred by the statute of limitations, no credit or refund of the \$10 shall be made without offsetting against such \$10 the \$15, assessment of which is barred. Thus, no credit or refund in respect of the \$10 can be made.

(e) As another example, assume that during 1955 a taxpayer reports wages of \$4,200 and net earnings from self-employment of \$900. By reason of the limitations of section 1402(b) he shows no self-employment income. Assume further that by reason of a final decision by the Tax Court of the United States, further adjustments to the taxpayer's income tax liability are barred. The question of the amount of his wages, as defined in section 3121, was not in issue in the Tax Court litigation, but it is subsequently determined (within the period of limitations applicable under the Federal Insurance Contributions Act) that \$700 of the \$4,200 reported as wages was not for employment as defined in section 3121(b). Therefore, the